

§ 15.206

§ 15.206 Procedure in the event of an adverse ruling regarding production of material or provision of testimony.

If the court or other authority declines to stay the demand made in accordance with §15.205(c) pending receipt of the determination from the Authorized Approving Official, or if the court or other authority rules that the demand must be complied with irrespective of the determination by the Authorized Approving Official not to produce the material or provide the testimony demanded or to produce subject to conditions or restrictions, the employee upon whom the demand has been made shall, if so directed by an attorney representing the Department, respectfully decline to comply with the demand. (*United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951)).

[73 FR 72206, Nov. 26, 2008]

Subpart D—Production of Material or Provision of Testimony in Response to Demands in Legal Proceedings in Which the United States Is a Party

SOURCE: 72 FR 8583, Feb. 26, 2007, unless otherwise noted.

§ 15.301 Purpose and scope.

(a) This subpart contains the regulations of the Department concerning the procedures to be followed and standards to be applied when demand is issued in a legal proceeding in which the United States is a party for the production or disclosure of any material, whether provided through production of material or provision of testimony.

(b) This subpart does not apply to demands, which are covered by part 2004 of this title, for production of material in the files of the Office of Inspector General or provision of testimony by employees within the Office of Inspector General.

§ 15.302 Production of material or provision of testimony prohibited unless approved.

Neither the Department nor any employee of the Department shall comply with any demand for production of ma-

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terial or provision of testimony in a legal proceeding in which the United States is a party, unless the prior approval of the attorney representing the United States has been obtained in accordance with this subpart. This rule does not apply to any legal proceeding in which an employee may be called to participate, either through the production of documents or the provision of testimony, not on official time, as to facts or opinions that are in no way related to material described in § 15.301.

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§ 15.303 Procedure for review of demands for production of material or provision of testimony in any legal proceeding in which the United States is a party.

Whenever a demand is made upon the Department or an employee of the Department for the production of material or provision of testimony, the employee shall immediately notify the Appropriate Associate General Counsel or Appropriate Regional Counsel.

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§ 15.304 Consideration of demands for production of material or provision of testimony.

Consideration of demands shall be within the province of the attorney representing the United States, who may raise any valid objection to the production of material or provision of testimony in response to the demand.

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§ 15.305 Method of production of material or provision of testimony.

If the production of material or provision of testimony has been authorized, the Department may respond by producing authenticated copies of the documents, to which the seal of the Department has been affixed in accordance with its authentication procedures. The authentication shall be evidence that the documents are true copies of documents in the Department's files and shall be sufficient for the purposes of Rules 803(8) and 902 of the Federal Rules of Evidence and Rule 44(a)(1) of the Federal Rules of Civil Procedure.

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